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| 10/767,398 | 01/28/2004 | Joseph J. Settelmayer | YAK 382 | 2860 |
| 23581 | 7590 | 01/25/2006 | EXAMINER | |
| KOLISCH HARTWELL, P.C. 200 PACIFIC BUILDING 520 SW YAMHILL STREET PORTLAND, OR 97204 | | | VANTERPOOL, LESTER L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3727 | |

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---|---|--|
| Office Action Summary | Application No. 10/767,398 | Applicant(s) SETTELMAYER ET AL. | |
| | Examiner Lester L. Vanterpool | Art Unit 3727 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 - 18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>Dec. 17, 2004</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed on December 17, 2004 listed and referenced U.S. Patent Number 6276311, dated: August 14, 2001 by Pedrini. U.S. Patent Number 6276311 is assigned to Reineking et al., dated on August 21, 2001 and does not pertain to the current invention filed with application 10/767398. Therefore, reference number 6276311 was not considered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Envall (U. S. Patent number 5582313) in view of Wooten, Jr. (U.S. Patent Number 3008177) and in view of Schuller (U.S. Patent Number 3677196). Envall discloses the box having the lid (1 & 2) and the bottom (3 & 4) (See Figures 1 & 2); the clamp device (29) configured to attach the bottom of the box to a pair of crossbars on top of a car (column 4, line 62 – 66); one or more hinge devices (8) releaseably connecting the lid (1

& 2) to the bottom (3 & 4) (See Figure 2), wherein, each hinge (8) has the first portion secured to the lid (1 & 2), and the second portion secured to the bottom (3 & 4), the hinge (8) is configured to permit pivotal rotation of the lid (1 & 2) along an edge portion of the bottom (3 & 4) (See Figure 2). However, Envall does not disclose a release mechanism so that the hinge device can also function as a latch to allow separation of the first and second portions of the hinge device, wherein the hinge device automatically snaps into engagement when the first portion is urged toward the second portion.

Wooten Jr. teaches a release mechanism (16) so that the hinge device (3) can also function as a latch to allow separation of the first and second portions of the hinge device (3) (column 2, line 43 – 48) (See Figures 5 & 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to hinge device as taught by Wooten Jr. in order to enhance the hinge device to be multi-functional.

Furthermore, Envall and Wooten Jr., do not disclose the hinge device automatically snapping into engagement when the first portion is urged toward the second portion. Schuller teaches the hinge device automatically snapping into engagement when the first portion is urged toward the second portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a hinge automatically snapping into engagement as taught by Schuller in order to enhance the carrier security system between the lid and the bottom.

Regarding claim 2, as stated above in claim 1, Wooten Jr., discloses one of the first and second portions having the catch, and the other portion has an enlarged structure (6) configured for receipt by the catch. See Figure 3.

Moreover, regarding claim 2, Schuller teaches one of the first and second portions having the catch, and the other portion having an enlarged structure (34) configured for receipt by the catch. See Figures 5 & 4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the catch spring biased toward a closed position as taught by Schuller in order to secure the latch and lid from movement.

Regarding claim 3, as stated above in claim 2, Schuller teaches the spring (28) biased toward a closed position which permits entry of the enlarged structure (34) into the catch but does not allow exit of the enlarged structure (34) from the catch without manipulation. See Figures 4.

4. Claims 4 – 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Envall (U.S. Patent Number 5582313) in view of Wooten, Jr. (U.S. Patent Number 3008177) in view of Schuller (U.S. Patent Number 3677196) as applied to claim 2 above, and further in view of Brunner (U.S. Patent Number 5492258). Envall, Wooten Jr., and Schuller disclose the invention substantially as claimed. However Envall, Wooten Jr. and Schuller do not disclose the catch including a pawl that is spring biased

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toward a constricted-passage position. Brunner teaches the catch includes the pawl (21) that is spring biased toward the constricted-passage position. See Figures 2 - 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a pawl spring biased toward a constricted-passage as taught by Brunner in order to apply additional tension and prevent slippage.

Regarding claim 5, as stated above in claim 4, Brunner discloses the pawl (21) can be pushed aside by the enlarged structure (22) upon entry but not upon exit of the catch. See Figures 2 – 5.

5. Claims 6 – 8, 10, and 12 - 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Envall (U. S. Patent number 5582313) in view of Wooten, Jr. (U.S. Patent Number 3008177) and in view of Schuller (U.S. Patent Number 3677196). Envall discloses the box having the lid (1 & 2) and the bottom (3 & 4) (See Figures 1 & 2); the clamp device (29) configured to attach the bottom of the box to a pair of crossbars on top of a car (column 4, line 62 – 66); one or more hinge devices (8) releaseably connecting the lid (1 & 2) to the bottom (3 & 4) (See Figure 2), wherein, each hinge (8) has the first portion secured to the lid (1 & 2), and the second portion secured to the bottom (3 & 4), the hinge (8) is configured to permit pivotal rotation of the lid (1 & 2) along an edge portion of the bottom (3 & 4) (See Figure 2).

However, Envall does not disclose a release mechanism so that the hinge device can also function as a latch to allow separation of the first and second portions of the hinge device, wherein one of the first and second portions has a catch, and the other portion has an enlarge structure configured for receipt by the catch.

Wooten Jr. teaches the release mechanism (16) so that the hinge device (3) can also function as a latch to allow separation of the first and second portions of the hinge device (3) (column 2, line 43 – 48) (See Figures 5 & 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to hinge device as taught by Wooten Jr. in order to enhance the hinge device to be multi-functional.

Furthermore, Envall and Wooten Jr., do not disclose one of the first and second portions having a catch, and the other portion having an enlarge structure configured for receipt by the catch. Schuller teaches one of the first and second portions having the catch and the other portion having an enlarge structure (34) configured for receipt by the catch. See Figures 5 & 4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the latch as taught by Schuller in order to enhance the carrier security system between the lid and the bottom.

Regarding claim 7, as stated above in claim 6, Schuller teaches the spring (28) biased toward a closed position which permits entry of the enlarge structure (34) into the catch but does not allow exit of the enlarged structure (34) from the catch without manipulation (column 2, line 8 –21). See Figures 4 & 5.

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Regarding claim 8, as stated above in claim 6, Wooten Jr., discloses the enlarged structure (6) is substantially spherical so that the hinge device (3) permits the first and second portions to be mounted on various lid (2) and bottom (1) shapes. See Figure 4.

Regarding claim 10, as stated above in claim 6, Wooten Jr., discloses the first and second lid supports (3), each lid support (3) connecting the lid (2) to the bottom (1). See Figure 2.

Regarding claim 12, as stated above in claim 6, Wooten Jr., discloses the first portion having the enlarged structure (6) and the second portion having the catch. See Figure 3.

Moreover, claim 12, as stated above in claim 6, Schuller, discloses the first portion having the enlarge structure (34) and the second portion having the catch. See Figure 5.

Regarding claim 13, as stated above in claim 6, Wooten Jr. discloses the invention substantially as claimed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the first portion having the catch and the second portion having the enlarge position since it has been held that

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rearranging parts on an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding claim 14, as stated above in claim 6, Wooten, Jr., discloses the second portion has the receptacle with the flared lip (17) allowing a limited amount of hinge rotation. See Figures 1 & 3.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Envall (U.S. Patent number 5582313) in view of Wooten, Jr. (U.S. Patent Number 3008177) in view of Schuller (U.S. Patent Number 3677196) and in view of Behringer (German Patent Number DE 19526477C1). Envall, Wooten, and Schuller disclose the invention substantially as claimed. However, Envall, Wooten, and Schuller do not disclose the catch provided with a spring that urges the enlarge structure to disengage when the catch is manipulated to an open position. Behringer teaches the catch provided with the spring (25) that urges the enlarged structure (24) to disengage when the catch is manipulated to an open position. See Figure 2. It would have obvious to one having ordinary skill in the art at the time the invention was made to make a catch as taught by Behringer in order to enhance and reduce the carrier changeover time between the open and close positions.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Envall (U.S. Patent number 5582313) in view of Wooten, Jr. (U.S. Patent Number 3008177) in

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view of Schuller (U.S. Patent Number 3677196) and in view of Grönwoldt et al., (U.S. Patent Number 5823411). Envall, Wooten, Jr., and Schuller disclose the invention substantially as claimed. However, Envall, Wooten Jr., and Schuller do not disclose each lid includes a slider mounted on a spring and a cam slidably contacting the slider so that the lid support assists in opening and closing the lid. Grönwoldt et al., teaches each lid (3) includes the slider (16) mounted on the spring and the cam slidably contacting the slider so that the lid support (16) assists in opening and closing the lid (3). See Figures 2 & 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made each lid as taught by Grönwoldt et al., in order to enhance user friendly capabilities by increase stability and reliability control.

8. Claims 15 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Envall (U.S. Patent Number 5582313) in view of Wooten, Jr. (U.S. Patent Number 3008177) in view of Schuller (U.S. Patent Number 3677196) as applied to claim 6 above, and further in view of Brunner (U.S. Patent Number 5492258). Envall, Wooten, Jr. and Schuller disclose the invention substantially as claimed. However Envall, Wooten Jr. and Schuller do not disclose the catch including a pawl that is spring biased toward a constricted-passage position. Brunner teaches the catch includes the pawl (21) that is spring biased toward the constricted-passage position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

in order to make a pawl spring biased toward a constricted-passage as taught by Brunner in order to apply additional tension.

Regarding claim 16, as stated above in claim 15, Brunner discloses the pawl (21) can be pushed aside by the enlarged structure (22) upon entry but not upon exit of the catch. See Figures 2 – 5.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Envall (U. S. Patent Number 5582313) in view of Wooten, Jr. (U.S. Patent Number 3008177). Envall discloses the box having the lid (1 & 2) and the bottom (3 & 4) (See Figures 1 & 2); the clamp device (29) configured to attach the bottom of the box to a pair of crossbars on top of a car (column 4, line 62 – 66); one or more hinge devices (8) releaseably connecting the lid (1 & 2) to the bottom (3 & 4) (See Figure 2), wherein, each hinge (8) has the first portion secured to the lid (1 & 2), and the second portion secured to the bottom (3 & 4), the hinge (8) is configured to permit pivotal rotation of the lid (1 & 2) along an edge portion of the bottom (3 & 4) (See Figure 2). However, Envall does not disclose a release mechanism so that the hinge device can also function as a latch to allow separation of the first and second portions of the hinge device; the first and second portions are configured to permit relative rotation around at least two axes.

Wooten, Jr. teaches the release mechanism (16) so that the hinge device (3) can also function as a latch allowing separation of the first and second portions of the hinge device (3) (column 2, line 43 – 48); the first and second portions are configured to

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permit relative rotation around at least two axes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the hinge as taught by Wooten Jr. in order to enhance the hinge device to be multi-functional.

10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Envall (U.S. Patent Number 5582313) in view of Wooten, Jr., (U.S. Patent Number 3008177) as applied to claim 17 above, and further in view of Muller et al., (U.S. Patent Number 4249684). Envall and Wooten, Jr., disclose the invention substantially as claimed. However, Envall and Wooten, Jr., do not disclose the clamp device including at least one cam lever positioned inside the box for opening and closing the clamp device securely around a crossbar. Miller et al. teaches the clamp device including at least one cam lever (48) positioned inside the box (26) for opening and closing the clamp device securely around a crossbar (22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a clamp device as taught by Miller et al., in order to enhance securing and anchoring a container to a vehicle roof to prevent movement when the vehicle is in motion.

Conclusion


Any inquiry concerning this communication or earlier communications from the

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examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JES F. PASCUA
PRIMARY EXAMINER

LLV